

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
APPENDIX**

76-1362

In The
United States Court of Appeals
For The Second Circuit

UNITED STATES OF AMERICA,

Appellee.

VS.

LAI MONG WAH,

Appellant.

APPELLANT'S APPENDIX

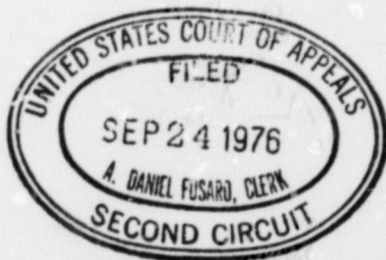
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DOCKET ENTRIES

<u>DATE</u>	<u>PROCEEDINGS</u>
2-4-76	Fld Papers received form Mag Raby Re: Lai Mong Wah- Docket Sheet-disposition sheet 1&2. Appearance Bond in the amt of \$15,000 Cash.-Warrant for an arrest on 7-2-75 executed Final Commitment & release.
6-18-76	LAI MONG WAH-Filed deft's request to charge.
6-21-76	LAI MONG WAH-Filed Govt's requests to charge.
6-18-76	LAI MONG WAH-Trial cont'd & concluded Jury verdict guilty on ct 1 under old & new law Ct 4 ct 5 & ct 7. Deft. acquitted on ct. 3 by the court Jury unable to agree on verdict on ct 2 Court dismisses ct 2 on deft's motion. PSI ordered Bail cont'd bail limits extended to N.J. Sentence adj to 7-22-76 ...Brieant, J.
7-19-75	LAI MONG WAH-Filed Govt's Sentencing Memorandum. LAI MONG WAH-Filed Judgment & Commitment Order-The Deft is hereby committed to the custody of the Atty General for imprisonment for a period of five (5) Years on COUNT #1 TEN (10) YEARS on each COUNTS 4,5, and 7, to run concurrently with each other BUT CONSECUTIVELY to sentence imposed on COUNT #1. Pursuant to Section 841 of Title 21, U.S. Code, Deft. is place on SPECIAL PAROLE for a period THREE (3) YEARS, to commence upon expiration of confinement. Deft is REMANDED in Lieu of Bail pending Appeal fixed in the amount of \$50,000.00 cash or surety . . .BRIEANT,J.
8-3-76	LAI MONG WAH-Filed Deft's Notice of Appeal to the A.U.S.A. for the 2nd Circuit from the Judgment on Counts 1, 4, 5, 7 of Indictment entered on 7-26-76. (m/n's)

JUDGE **REYNOLDS**

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PROCEEDINGS

~~CHEUNG KIN PING~~-Fid Deft's Notice of Motion for Order...dismissing indictment, Suppression, Production...etc.....No ret date supplied.

Fid Papers received from Mag Raby Re:Lai Mong Wah- Docket Sheet-disposition sheet 1st Appearance Bond in the amt of \$15,000 Cash.-Warrant for arrest on 7-2-75 executed Final Commitment & release.

PING-Fid Papers recvd from Mag Raby=Docket Sheet-Copy of Warrant of Arrest executed on 7-2-75...Appearance Bond in the sum of \$15,000-by Peerless Ins Co-Bond-Disposition Sheet Final Commitment & release, 1.

Filed affdvt of T.E. Engel, AUSA, in opposition to various motions made by the Deft. CHEUNG KIN PING and joined in, to the extent applicable, by the Deft LAI MONG.

Filed Govt's Memorandum of Law.

CHEUNG KIN PING- Filed Deft's reply memorandum in support of motion to suppress post-arrest statements. (3/1/76)

CHEUNG KIN PING - Filed memo ent. on motion filed 1-22-76 to the extent the within motion dismiss for undue pre-indictment delay, it is denied. There is no basis to dismiss on grounds of double jeopardy. to the extent based on double jeopardy, the motion to dismiss is denied. The court declines to hold a further suppression hearing on a claim regarded as not even colorable. All other issues raised in the within motion extend not determined by agreement or oral directions of the Court are denied So Ordered..Brieant, J. M/N

5-27-76 CHEUNG KIN PING- Filed deft's notice of motion & affdvt for re-argument & re-consideration of item III of deft's original omnibus motion & for an evidentiary hearing to suppress any & all statements allegedly made by the deft on or about 4-6-72 in Miami, Florida. Ret. 6-7-76

6-2-76 CHEUNG KIN PING - Filed letter from T.E. Engel AUSA to Judge Brieant dated 6-27-76

6-3-76 Filed transcript of record of proceedings, dated 7-26-76

06-07-76 Filed Govt's proposed examination for prospective jurors.

06-07-76 Filed deft's request on voir dire.

06-07-76 Filed letter from Assistant U.S. Atty. Thomas M. Engel to JUDGE BRIEANT, dated 06-03-76

6-8-76 Filed memo ent on motion filed 5-27-76 motion denied except to extent set forth on the total record this date So ordered Brieant, J. M/N

6-18-76 LAI MONG WAH- Filed deft's request to charge

6-21-76 CHEUNG KIN PING- Filed deft Cheung Kin Ping's request to charge

6-21-76 CHEUNG KIN PING - Filed Govt's requests to charge

6-21-76 LAI MONG WAH- Filed Govt's requests to charge

PROCEEDINGS

Case reassigned to Judge Brieant for all purposes (see memo dated 12-17-75) Frankel

CHEUNG KIN PING- Deft (atty present) Interpreters Laura Hoy & Shirley Hoy present

Jury trial begun

Cheung KIN PING- " " " " " " " " " " " " trial cont'd

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CHEUNG KIN PING- ^{jury verdict} cont'd & concluded Deft guilty on ct 1 under new & old law
ct 6 & ct 13 PSI ordered Bail cont'd Sentence Adj to 7-22-76...Brieant, J.

7-7-76 LAI MONG WAH - Deft (atty present) Interpreters Laura Hoy & Shirley Hoy present

Jury trial begun

8-76 LAI MONG WAH- " " " " " " " " " " " " trial cont'd

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6-19-76 LAI MONG WAH- Trial c ont'd & concluded Jury verdict guilty on ct 1 under old &
new law Ct 4 t 5 & ct 7. Deft acquitted on ct 3 by the court Jury unable to agree
on verdict on ct 2 Court dismisses ct 2 on deft's motion. - PSI ordered Bail cont'd
bail limits extended t N.J. Sentence adj to 7-22-76...Brieant, J

7-9-76 LARRY LOMBARDI- Filed the following papers rec'd from Mag Ruby (Mag 76-765)

Docket entry sheet-Warrant for arrest of deft-disposition sheet-GIA form #23
Financial affid-copy of indictment- Order appointing counsel

7-16-76 LARRY LOMBARDI- Deft remanded in lieu of bail fixed at \$50,000 PRB secured by
\$5,000 cash or surety to be co-signed by both brothers. Conditions of bail being
deft report on Tuesdays & Thursdays before noon in person to pre-trial services
in rm 220 Trial scheduled for 9-13-76 in Rm 1506Brieant, J.

7-13-76 LAI MONG WAH- Filed Gov't's Sentencing Memorandum.

7-26-76 CHEUNG KIN PING- Filed Judgment & Commitment Order- The Deft is hereby committed to
the custody of the Atty General for imprisonment for a period of SEVEN (7) YEARS on
each of COUNTS #1 AND #2, to run concurrently with each other. Imposition of sentence
on COUNT #19 is suspended. Deft. is placed on Probation for a period of SIX (6) MONTHS
to begin immediately, subject to the standing Probation order of this Court.
Pursuant to Section 341 of Title 21, U.S. Code, Deft. is placed on SPECIAL PAROLE for
a period of THREE (3) YEARS, to commence upon expiration of confinement. Deft is
continued on Bail, until he posts bail pending Appeal fixed in the amount of \$15,000.
cash or surety.....BRIEANT, J.

7-21-76 CHEUNG KIN PING- Filed Notice of Appeal to the U.S.C.A. for the 2nd Circuit from the
judgment dated 7-26-76. Leave to proceed on appeal in forma pauperis is granted.....
Brieant, J. (Copies mailed to AUSA & Deft.)

(Cont'd on Page 4)

PROCEEDINGS

WICK LAI MONG WANG: Filed Defendant's Commitment Order. The Deft is hereby committed to the custody of the Att. Gen. for imprisonment for a period of five (5) Years on Counts 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

LAU MONG WANG: Filed Deft's Notice of Appeal to the A.M.S.A. for the 2nd Circuit from the Judgment on Counts 1, 1, 5, 7, of Indictment entered on 7-25-76. (n/n's)

FILED
JUL 26 1976
FBI - NEW YORK

[Signature]

[Handwritten mark]

TEE:jp
72-3298
M-285

APPENDICES
INDICTMENT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

75-614

UNITED STATES OF AMERICA,

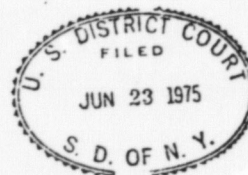
- v -

LARRY LOMBARDI,
中国 (SAMMY CHO), a/k/a "Cho
Kwok Chung,"
张 (CHEUNG KIN PING), a/k/a
"Siao Moo Bee,"
李 (LAI MONG WAH), a/k/a
"Wah Je," a/k/a "Gloria"
a/k/a "Big Sister",
张 (CHANG YU CHING),

INDICTMENT

75 Cr.

Defendants.



COUNT ONE

The Grand Jury charges:

1. On or about the 1st day of January, 1970, and continuously thereafter up to and including the 30th day of April, 1972, in the Southern District of New York, and elsewhere, LARRY LOMBARDI, SAMMY CHO, a/k/a "Cho Kwok Chung", CHEUNG KIN PING, a/k/a "Siao Moo Bee," LAI MONG WAH, a/k/a "Wah Je," a/k/a "Gloria," a/k/a "Big Sister", CHANG YU CHING, the defendants, and others to the Grand Jury known and unknown, including Liu Yeuh Han, a/k/a "Dr. John Liu," Yui Kwei Sang, a/k/a "George Yui," Ting Yee Fong, a/k/a "Doo Moo Bee," Ka Chung Fuk, John Doe, a/k/a "Ah Dee," John Doe, a/k/a "Ah Sung," Keung Sui Fung, a/k/a "Chiang Shao Fung," Americo Spagnuolo, a/k/a "Rick," John Doe, a/k/a "Po Leung", named herein as co-conspirators but not as defendants, unlawfully, wilfully and knowingly combined, conspired, confederated and agreed together and with each other to violate, prior to May 1, 1971, Sections 173 and 174

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of Title 21, United States Code, and, on and after May 1, 1971, to violate Sections 812, 841 (a) (1), 841 (b)(1)(A), 951 (a)(1) and 952 of Title 21, United States Code.

2. It was a part of said conspiracy that prior to May 1, 1971, the said defendants and co-conspirators, unlawfully, wilfully, knowingly and fraudulently would import and bring into the United States large amounts of narcotic drugs from and through Hong Kong, British Crown Colony, and other countries to the Grand Jury unknown, in violation of Sections 173 and 174 of Title 21, United States Code.

3. It was further a part of said conspiracy that prior to May 1, 1971, the said defendants and co-conspirators unlawfully, wilfully and knowingly would receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a quantity of narcotic drugs, the exact amount and nature thereof being to the Grand Jury unknown, after the said narcotic drugs had been imported and brought into the United States contrary to law, knowing that the said narcotic drugs had been imported and brought into the United States contrary to law in violation of Sections 173 and 174 of Title 21, United States Code.

4. It was further a part of said conspiracy that on and after May 1, 1971, the said defendants and co-conspirators unlawfully, wilfully and knowingly would import into the United States from a place outside thereof, to wit, Hong Kong, British Crown Colony, Schedule I narcotic drug controlled substances, the exact amount thereof being to the Grand Jury unknown, in violation of Sections 812, 951 (a)(1) and 952 of Title 21, United States Code.

5. It was further a part of said conspiracy that on and after May 1, 1971, the said defendants and co-conspirators unlawfully, wilfully and knowingly would distribute and possess with intent to distribute Schedule I narcotic drug controlled substances, the exact amount thereof being to the Grand Jury unknown, in violation of Sections 812, 841 (a)(1) and 841 (b)(1)(A) of Title 21, United States Code.

OVERT ACTS

In pursuance of the said conspiracy and to effect the objects thereof, the following overt acts were committed in the Southern District of New York and elsewhere:

1. In the summer of 1970 defendant CHANG YU CHING showed defendant LAI MONG WAH a sample of heroin in a Mah Jongg Club located at Number 10, The Bowery, New York, New York.
2. In the winter of 1970-71 a sailor entered the Golden Star Bar, 51 East Broadway, New York, New York and spoke to defendant LAI MONG WAH.
3. In the winter of 1970-71 defendant LAI MONG WAH received approximately three pounds of heroin off a ship docked at Staten Island, New York.
4. In or about March, 1971, co-conspirators Yuin Kwei Sang and Liu Yueh Han met in Room 1104 of the Woodner Hotel, 3636 16th Street, N.W., Washington, D.C.
5. In or about March, 1971, co-conspirator Liu Yueh Han paid co-conspirator Yuin Kwei Sang \$15,000 in the vicinity of the Peking Restaurant, 5522 Connecticut Avenue, N.W., Washington, D.C.

6. In or about March, 1971, defendant LAI MONG WAH sent approximately \$10,000 from New York, New York to defendant CHANG YU CHING in Hong Kong, British Crown Colony.

7. In or about September, 1971, a sailor delivered two coffee tables, each containing approximately two and a half pounds of heroin to an apartment rented by defendant LAI MONG WAH at 133 East 4th Street, New York, New York.

8. In or about September, 1971, defendant CHEUNG KIN PING and co-conspirator John Doe, a/k/a "Po Leung", received approximately eight ounces of heroin at 80 First Avenue, New York, New York.

9. On or about September 29, 1971, co-conspirator Liu Yueh Han gave another person \$2500 in the Peking Restaurant 5522 Connecticut Avenue, Washington, D.C.

10. In or about September, 1971, defendant, SAMMY CHO distributed approximately 15 pounds of heroin at 274 Mott Street, New York, New York.

11. In or about September, 1971, defendant LARRY LOMBARDI, at 95 East Broadway, New York, New York, received approximately two kilograms of heroin and tested it by boiling a sample of it, contained in a test tube, in mineral oil.

12. On several occasions in or about September, 1971, defendant LARRY LOMBARDI received quantities of heroin contained in five-ounce bags totaling approximately 15 pounds of heroin.

13. In or about October, 1971, defendant SAMMY CHO transported approximately 20 pounds of heroin in a red Studebaker from 274 Mott Street to 133 East 4th Street, New York, New York.

14. On several occasions in or about October, 1971, defendant LARRY LOMBARDI received quantities of heroin contained in five-ounce bags, totaling approximately 20 pounds of heroin.

15. In or about December, 1971, defendant LARRY LOMBARDI received approximately one pound of heroin at 95 East Broadway, New York, New York.

16. In or about November, 1971, defendant LARRY LOMBARDI and co-conspirator Americo Spagnuolo counted approximately \$30,000 at 95 East Broadway, New York, New York.

17. On or about December 1, 1971, defendant CHEUNG KIN PING flew from New York, New York to Hong Kong, British Crown Colony.

18. In or about December, 1971, defendant CHANG YU CHING received approximately \$10,000 from defendant LAI MONG WAH in Hong Kong, British Crown Colony.

19. On or about December 22, 1971, defendant LAI MONG WAH, negotiated approximately \$14,000 in personal money orders through the Hang Seng Bank, Hong Kong, British Crown Colony.

20. In or about January, 1972, defendants LAI MONG WAH, CHEUNG KIN PING, and SAMMY CHO met in the Wing Wah Restaurant, Hong Kong, British Crown Colony.

21. On or about January 3, 1972, defendant SAMMY CHO negotiated approximately \$5,000 in personal money orders through the Chase Manhattan Bank, Hong Kong, British Crown Colony.

22. On or about January 26, 1972, defendants LAI MONG WAH, CHEUNG KIN PING, and SAMMY CHO met in the Hotel Singapore, 54 Kennedy Road, Hong Kong, British Crown Colony.

23. On or about February 12, 1972, on a dock in Hong Kong, British Crown Colony, co-conspirator Ting Yee Fong received approximately 22 pounds of heroin in a suitcase and carried it aboard the M/V Laomedon.

24. On or about March 30, 1972, co-conspirator Ting Yee Fong placed a telephone call from Panama, Canal Zone to defendant CHEUNG KIN PING in New York, New York.

25. On or about April 5, 1972, defendants CHEUNG KIN PING and SAMMY CHO flew from New York, New York to Miami, Florida.

26. On or about April 5, 1972, defendants CHEUNG KIN PING and SAMMY CHO possessed approximately 22 pounds of heroin at Dodge Island Seaport, Miami, Florida.

(Title 21, United States Code, Section 846).

COUNT TWO

The Grand Jury further charges:

In or about January, 1971, in the Southern District of New York, LAI MONG WAH, a/k/a "Wah Je", a/k/a "Gloria", a/k/a "Big Sister" and CHANG YU CHING, the defendants, unlawfully, wilfully, knowingly and fraudulently did import and bring into the United States contrary to law a narcotic drug, to wit, approximately three pounds of heroin, in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174; Title 18, United States Code, Section 2.)

COUNT THREE

The Grand Jury further charges:

In or about August, 1970, in the Southern District of New York, LAI MONG WAH, a/k/a "Wah Je", a/k/a "Gloria", a/k/a "Big Sister", the defendant, unlawfully, wilfully and knowingly did receive, conceal, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately three pounds of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs may find necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Section 173 and 174.)

COUNT FOUR

The Grand Jury further charges:

In or about September, 1971, in the Southern District of New York, LAI MONG WAH, a/k/a "Wah Je", a/k/a "Gloria", a/k/a "Big Sister" and CHANG YU CHING, the defendants, unlawfully, knowingly, and intentionally did import into the United States from a place outside thereof, to wit, Hong Kong, British Crown Colony, a Schedule I narcotic drug controlled substance, to wit, approximately five pounds of heroin.

(Title 21, United States Code, Section 951(a)(1) and 952).

COUNT FIVE

The Grand Jury further charges:

In or about the month of September, 1971 in the Southern District of New York, LAI MONG WAH, a/k/a "Wah Je", a/k/a "Gloria", a/k/a "Big Sister", the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately five pounds of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT SIX

The Grand Jury further charges:

In or about the month of September, 1971, in the Southern District of New York, CHEUNG KIN PING, a/k/a "Siao Moo Bee", the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately eight ounces of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT SEVEN

The Grand Jury further charges:

In or about the month of September, 1971, in the Southern District of New York, LAI MONG WAH, a/k/a "Wah Je," a/k/a "Gloria" a/k/a "Big Sister", and LARRY LOMBARDI, the defendants, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately one kilogram of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).) A8.

COUNT EIGHT

The Grand Jury further charges:

In or about the month of September, 1971, in the Southern District of New York, SAMMY CHO, a/k/a "Cho Kwok Chung", the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately five pounds of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT NINE

The Grand Jury further charges:

In or about the month of September, 1971, in the Southern District of New York, LARRY LOMBARDI, the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately two kilograms of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT TEN

The Grand Jury further charges:

In or about the month of September, 1971, in the Southern District of New York, SAMMY CHO, a/k/a "Cho Kwok Chung", the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately ten pounds of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT ELEVEN

The Grand Jury further charges:

In or about the month of October, 1971, in the Southern District of New York, LARRY LOMBARDI, the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately two kilograms of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT TWELVE

The Grand Jury further charges:

In or about the month of October, 1971, in the Southern District of New York, LARRY LOMBARDI, the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately two kilograms of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT THIRTEEN

The Grand Jury further charges:

In or about the month of October, 1971, in the Southern District of New York, SAMMY CHO, a/k/a "Cho Kwok Chung" the defendant, unlawfully, intentionally and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately twenty pounds of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT FOURTEEN

The Grand Jury further charges:

In or about the month of October, 1971, in the Southern District of New York, LARRY LOMBARDI, the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately two kilograms of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT FIFTEEN

The Grand Jury further charges:

In or about the month of October, 1971, in the Southern District of New York, LARRY LOMBARDI, the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately two kilograms of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT SIXTEEN

The Grand Jury further charges:

In or about the month of November, 1971, in the Southern District of New York, LARRY LOMBARDI the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately two kilograms of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

The Grand Jury further charges:

On or about the 23rd day of November, 1971, in the Southern District of New York, LARRY LOMBARDI, the defendant, unlawfully, intentionally and knowingly did possess possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately two kilograms of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT EIGHTEEN

The Grand Jury further charges:

In or about the month of December, 1971, in the Southern District of New York, LARRY LOMBARDI, the defendant, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately one pound of heroin.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT NINETEEN

The Grand Jury further charges:

On or about the 30th day of March, 1972, in the Southern District of New York, CHEUNG KIN PING, a/k/a "Siao Moo Bee", the defendant, did unlawfully, knowingly, and intentionally use a communication facility, to wit, a telephone in committing, causing and facilitating the commission of an act which is a felony under the federal narcotics laws [Title 21, United States Code, §§ 801 et seq.], to wit, the conspiracy charged in Count One of this indictment.

(Title 21, United States Code, Section 843(b)).

2

Paul J. Schick
Forelady

Paul J. Curran
PAUL J. CURRAN
United States Attorney

A TRUE AND CORRECT
RETURN OF THE GRAND JURY
TO THE CLERK OF THE COURT
IN THE
SOUTHERN DISTRICT OF NEW YORK
ON THIS 12th DAY OF APRIL 1972
BY THE CLERK

75 JUN 14 1975
FBI - NEW YORK
JUN 14 1975

United States District Court

SOUTHERN DISTRICT OF NEW YORK

THE UNITED STATES OF AMERICA

vs.

LARRY LOMBARDI, *曾國棟*
(SAMMY CHO), a/k/a "Cho Kwok
Chung," et al.,

Defendants.

INDICTMENT

Title 21, U.S.C. §§ 173, 174,
812, 951, 952, 841, 846, 843.

PAUL J. CURRAN

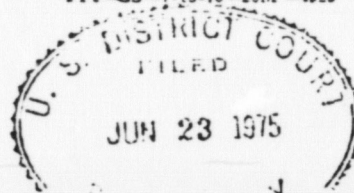
Print. Contact
10/10/75
United States Attorney

A TRUE BILL

Carol L. Schuler

Foreman

FPI-ES-1-13-70-20M-4925



June 23, 1975 - Filed Indictment.
Ordered Sealed. Bench Warrants
Ordered as to all defendants.

8/2/75 - Adj. to Aug. 11, 1975. Knapp J
Hunt, J. Wm

December 31, 1975 - Case re-designated
to Bricant J for all purposes.
(See memo dated 12/7/75 - CLH).

Task
most

Investigator ^{Lower to May} ^{Shirley May} ^{Chiang Kai Shek} ^{Long Lee Hong} ^{with}
JUN 7 1975 (atty present) jury trial began.
JUN 8 1975 Trial Cont'd.
JUN 9 1975 Trial Cont'd.
JUN 10 1975 Trial Cont'd.
JUN 11 1975 Trial Cont'd.
JUN 14 1975 Trial Cont'd.
JUN 15 1975 Trial Cont'd.

ENDORSEMENTS ON ENCL/CLIP

JUN 16 1976

Trial cont'd.

JUN 17 1976

Trial cont'd.

JUN 18 1976

Trial cont'd. & concluded. Jury verdict.

Def. Wah guilty on ct. 1 under old & new law,
ct. 4, ct. 5 & ct. 7. Def. acquitted on ct. 3
by the court. Jury unable to agree on verdict
on ct. 2. Court dismisses count 2 on def.
motion.

Def. Ping. guilty on ct. 1 under old & new law
ct. 6, & ct. 7.

PSI ordered for Both defts. Bail cont'd.
Def. Wah's bail limits extended to N.J.
Sentence adj'd to July 22, 1976.

July 16, 1976 Def. Lombardi (att. Jack Lipson) Briant, J.

Def. remanded in ~~lieu~~ lieu of bail
fixed at \$50,000 P.R.B. Secured by \$5,000
cash, & surety to be co-signed by both
brothers. Conditions of bail being deft
report on Tuesdays & Thursdays before
the person to Pre-trial services in
Rm. 220. Trial scheduled for 9/13/76
Pm 1506.

Briant, J. fm

A-14

7/26/76

Def. Charles Kiu Piao (att. present) Briant

7/26/76
Deft. Cheung Kin Pung (atty present) Interpreter
Cheung Mr. Chun present

7 yrs on ca & etc 1 & 6, conc.

ISS Prob 6 mos. on ct 19

3 years Special Parole.

Cont'd on present bail until he
posts bail pending appeal fixed
in the amount of \$15,000 cash or surety.
DM

Deft Lai Hong Wah (atty present)

Interpreter Laura Ho present.

5 yrs ct 1; 10 yrs etc 4, 5 & 7 conc.

but CONSECUTIVE to ct 1.

3 yrs Special Parole

Remanded in lieu of \$50,000 cash
or surety
WM

Breant, J.

Judgment & Commitment

United States of America vs.

United States District Court for

DEFENDANT Lai Mong Wah a/k/a Wah Je Southern District of New York
a/k/a Gloria a/k/a Piu Sister
 DOCKET NO. 75 Cr. 614 CLB

JUDGMENT AND PROBATION/COMMITMENT ORDER

COUNSEL In the presence of the attorney for the government the defendant appeared in person on this date 7 26 1976
☐ WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.
☒ WITH COUNSEL Steven Slepian (Name of counsel)
 Interpreter, Laura Ho, present in Court.
PLEA ☐ GUILTY, and the court being satisfied that there is a factual basis for the plea, ☐ Nolo Contendere, ☒ NOT GUILTY

There being a finding/verdict of ☐ NOT GUILTY. Defendant is discharged
☒ GUILTY.
FINDING & JUDGMENT Defendant has been convicted as charged of the offense(s) of conspiracy to violate the Federal narcotic laws both old and new. (Title 21, U.S. Code, Sections 173, 174 and 846.); importation of heroin I. (Title 21, U.S. Code, Sections 951(a)(1) and 952.); distribute and possess with intent to distribute heroin, I. (Title 21, U.S. Code, Sections 81, 841(a)(1) and 841 (b)(1) (A).)

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of
SENTENCE OR PROBATION ORDER FIVE (5) YEARS on count 1; TEN (10) YEARS on each of counts 4, 5 and 7, to run concurrently with each other BUT CONSECUTIVELY to sentence imposed on count 1.

Pursuant to Section 841 of Title 21, U.S. Code, defendant is placed on Special Parole for a period of THREE (3) YEARS, to commence upon expiration of confinement.

SPECIAL CONDITIONS OF PROBATION

Defendant is remanded in lieu of bail pending appeal fixed ~~in~~ the amount of \$50,000.00 cash or surety.

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION The court orders commitment to the custody of the Attorney General and recommends,
 AUG 1 1976

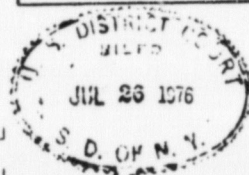
It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY
☒ U.S. District Judge
☐ U.S. Magistrate

Charles L. Bryant
 Charles L. Bryant,

A-16

7-26-76



EXCERPTS RELATING TO DIARY

T1A.PM

mdjb

255

AFTERNOON SESSION

1:40 p.m.

(n open court - jury not present.)

THE COURT: You may proceed, Mr. Engel.

MR. ENGEL: I have examined cursorily Court's Exhibit 1, and I simply have not had time to make a thorough review of it.

However, what I will do is turn Court's Exhibit 1 over to the defense, they may view it, and I will leave it as Court's Exhibit 1 and not give it a 3500 number.

THE COURT: I think that is a reasonable thing to do.

MR. ENGEL: One other thing came to my attention over the luncheon hour that I want to bring to the attention of the court.

I asked the witness Yui, because something occurred to me this morning while we were in court, whether he kept a diary of any sort, and he said he did, and he showed it to me.

It's in Chinese. I don't know what it concerns except that it records meetings from time to time with me and with Mr. Taylor. The government's position is that that diary is not 3500 material because it's not in the

A-17

possession of the government. But in any event, I bring it to the court's attention.

THE COURT: Is it in the possession of the government?

MR. ENGEL: It's in Mr. Yuin's possession, your Honor. I viewed it at my desk over the luncheon break.

THE COURT: If it should contain Brady material, God help you. That's the problem with it. You now know the diary exists, and it's in Chinese, and it could say most anything.

MR. ENGEL: I suppose it could say most anything, your Honor. I still believe that insofar as I know there is no Brady material in it because I don't know what's in it, and, secondly, it's not 3500 material, I believe, because it's not in my possession. I just found it out over lunch and I bring it to your attention because I think I am bound to.

THE COURT: I suppose you are. All right. What period does the diary cover?

MR. ENGEL: January 1, 1975 to the present.

THE COURT: It couldn't be Brady material, could it?

MR. SLEPIAN: Except that there may be various representations that we would be able to use for impeachment.

A-18

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2 purposes that may have been written by Mr. Yuin as to
3 recollections or conversations that he had with Mr. Taylor
4 relative --

5 THE COURT: Is there anything more Mr. Taylor
6 could have told him that hasn't been brought out? He didn't
7 put him in the government pension plan yet.

8 MR. SLEPIAN: I think more than that, sir,
9 seriously, I think that the witness certainly is as vague
10 as he can be when it's helpful for his position to be so,
11 and as clear as can be when it's harmful to the defense
12 position.

13 These various written documents he may have in
14 his possession may show that his vagueness is not as vague
15 as it would be, that there may be --

16 THE COURT: It wouldn't show that, because he
17 is not referring to his diary while he is testifying. He
18 is testifying under difficult working conditions. He
19 speaks some English. Some of the interpretation may vary
20 from what he thinks he hears in English. I think we had
21 best resolve this in a practical fashion, that the diary
22 be made available but not to be taken out of the U.S.
23 Attorney's office, and either or both of the interpreters
24 look at it, and if there is anything that might pass for
25 Brady material I'll recall him later in the trial and let

A-19

you bring it out.

I am inclined to agree it's not 3500 material.

MR. SLEPIAN: If the diary is not a telephone book in terms of volume it seems to me if the book were given to us now it won't take more than a cursory inspection on our part to see the sum and substance of it.

THE COURT: That's admissible optimism. Any objection to that?

MR. ENGEL: I think it's more voluminous than Mr. Slepian's conjecture would suggest. I think if they want to ask him a question, and he gives a vague answer about dates, they can certainly ask him to refresh his recollection from the diary.

MR. SLEPIAN: At this posture the defense request on behalf of Lai Mong Wah would be tough access to the diary to view it with our interpreter in relation to any material that may be helpful to us in relation to various transactions, promises, alleged inferences, or whatever may have gone on between the witness and/or any government agency.

MR. ENGEL: How could an inference go on between a witness and the government?

MR. SLEPIAN: Innuendo, or his interpretation of what "we will help you" would mean.

A-20

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2 THE COURT: I don't want to argue the point.
3 It might possibly be Brady material. As I observed many
4 times we seem to be more interested in Brady compliance
5 than we are with the ultimate issue in a case. It's too
6 bad we didn't listen to Justice Cardozo when he was alive,
7 but we didn't, and this is our mode of procedure. We
8 will do almost anything to avoid resolving a case on the
9 merits.

10 So to avoid any problem, my suggestion is that
11 it be marked for identification. You can look at it. You
12 can have your interpreter look at it. But I will not hold
13 up this trial which is already proceeding much too slowly.
14 Get it out and mark it.

15 MR. ENGEL: Yes, your Honor.

16 MR. SLEPIAN: Cardozo also said that danger
17 invites rescue.

18 (Continued on next page.)
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office, did you not?

A That's correct.

Q Did you use any dictionary at the time you made this diagram and wrote the words on it?

A No, I did not use a dictionary.

Q You didn't need any dictionary to write the word "garden," did you?

A That's correct.

Q You didn't need any dictionary to write the word "First Avenue," did you?

MR. ENGEL: The document speaks for itself. He testified he didn't use a dictionary.

THE COURT: That is my understanding.

Q And there was nobody that told you north, east, south and west are represented by N, E, W and S, was there?

A I knew that.

MR. ROSENTHAL: May I show this to the jury, your Honor? They haven't seen it up to now.

THE COURT: Yes.

MR. ROSENTHAL: I have no other questions.

THE COURT: Please stand by.

(Witness excused)

THE COURT: Bring in the next witness.

A22

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2 THE COURT: I keep preaching and it doesn't
3 do any good around here. Here we are all tied up with
4 this lengthy trial, an experienced attorney is standing
5 here and he didn't know you had these goods on his
6 client. He didn't know it, and he wasn't able to confer
7 with his client with regard to it, and he wasn't able to
8 seek to apply his judgment to that fact. It's rather
9 discouraging to this court.

10 MR. SLEPIAN: May we use this moment while the
11 jury is out.

12 In relation to those diaries I would request
13 what has been happening so far --

14 (Continued on next page.)
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1 l mdmch

2 THE COURT: You want a progress report on the
3 diaries?

4 MR. SLEPIAN: Because the diaries are lengthy
5 in terms of the Chinese characteristics which represent,
6 of course, a large number of words, and I would wish to
7 know if there is any expectation as to when we could have
8 this in order to start preparing for impeachment value,
9 of which I already know from the first page that I have
10 questions to ask.

11 THE COURT: Mr. Engel has undertaken to use his
12 best efforts and Mrs. Ho's best efforts. I suppose a
13 progress report might be helpful at this time.

14 MR. ENGEL: I wish I could give a sunny progress
15 report, your Honor. I conferred at length with Mrs. Ho
16 and Mr. Yuin at the close of business yesterday. It was
17 agreed by both of them that if that were undertaken to
18 be translated it would take a couple of weeks.

19 I then was thinking, well, we could parse
20 it all out to different interpreters, have a person take
21 this, and another person that.

22 THE COURT: They were perfectly happy when
23 they had it in their hands, and then your client demanded
24 it back, and I was concerned that Yuin does have some
25 Fourth and Fifth Amendment rights still left to him, and

A24

1 2 mdmch

2 maybe his life might be in danger as a result of criminals
3 in Hong Kong, who might want to do him in because of what
4 they read in the Chinese newspaper, and I was concerned.

5 If I had known it was going to be such a
6 manifold problem, I would have simply left it in Mrs.
7 Moy's hands where it was yesterday.

8 MR. SLEPIAN: It didn't seem to be that much
9 of a problem. Mrs. Moy was able to do one page for me
10 in about two minutes.

11 The entire book is not full, the hard-cover
12 book. I would estimate it to be about half a hard-cover
13 book.

14 As far as the short little soft-cover volume,
15 some of it is in sophisticated English, which I certainly
16 can read, and --

17 MR. ENGEL: That isn't part of the diary, in
18 any event.

19 MR. SLEPIAN: I don't know who wrote that.
20 I don't know whose handwriting that is yet. It is
21 purported to be his diary.

22 THE COURT: Some of the handwriting is not his.
23 Some of it is names, phone numbers and addresses of people
24 he has known and seen.

25 MR. SLEPIAN: There are statements in English

A25

1 3 mdmch

2 about protection act, about DEA agents and other things.

3 THE COURT: I think any evidence as to his
4 English ability is purely cumulative.

5 MR. SLEPIAN: The point is my interpreter
6 here apparently wouldn't need two weeks, wouldn't need
7 two days, to go through this entire diary with counsel.

8 We were making excellent progress here
9 very speedily.

10 THE COURT: Do you think with Mr. Yuin's help
11 you could do it quicker than that?

12 MR. ENGEL: Your Honor, I then asked Mr. Yuin,
13 what does this diary contain in it anyway?

14 THE COURT: It contains a fine, self-serving
15 statement of all the cooperating he has done and the
16 rewards he is to receive from it. I think that is apparent
17 from the English.

18 I find my own name in it in English.

19 MR. ENGEL: I think your name is in it.

20 At least the following is also in it:

21 The weather on any given day, his records of his corres-
22 pondence with his daughter in Shanghai, certainly his
23 meetings with me, with Mr. Taylor, and his own attorney,
24 so there are obviously privileged matters in there as
25 well.

A26

1 4 m.d.m.c.

2 In other words, it is a diary.

3 THE COURT: Does it all amount to a row of pins?

4 MR. ENGEL: I think it probably does amount
5 to a row of pins, your Honor, but here's what I have done.
6 This is the decision I reached about 6:00 o'clock
7 yesterday, and I hope it meets with the Court's approval.

8 I directed Mr. Yuin to go home and spend
9 the entire day today and go through and pin or pick out
10 every passage that deals in any way with his relationship
11 with the Government, or with his testimony in this case.

12 THE COURT: I would rather he do the opposite,
13 that he pick out any paragraph that he considers privileged
14 under any grounds imaginable and anything that he considers
15 involves danger to his family or himself, that he wouldn't
16 want them to have.

17 My hope would really be he would say to them,
18 "Go on, take it," because he has cast his lot with the
19 Government, for better or for worse, and whatever risk
20 he has taken by doing that he has already taken, and I
21 don't think as a practical matter the diary should add to
22 the peril in which he finds himself.

23 MR. ENGEL: He doesn't feel that way, your
24 Honor. He feels, and I think understandably, that certain
25 of these matters, his thoughts, his relationship with his

A27

2 daughter, and so forth, are private things. He doesn't
3 want them to be aired.

4 THE COURT: Suppose he would pinpoint the
5 private things and Mrs. Ho translated only those, and you
6 would release to the defendants the Xerox copy of the
7 trivial things?

8 MR. ENGEL: I am trying to figure out how
9 we can do this and do it within the context of the trial,
10 your Honor.

11 What I then suggested was that Mrs. Ho then
12 go and review with him these matters which deal with
13 his relationship to the Government, and anything he said
14 in his testimony. Then she would translate those matters
15 for me.

16 THE COURT: The difficulty with that is, you
17 see, that these defendants -- and I can't find fault with
18 their position in this regard -- place you in the
19 posture of a totally untrustworthy and untruthful person.

20 MR. ENGEL: Of course, your Honor.

21 THE COURT: That is the strategy and position
22 they have the right to adopt and must adopt, so they
23 aren't going to permit someone whose veracity they don't
24 trust to cull out Brady material. They will permit the
25 U.S. Attorney to do so. They have to permit the U.S.

A28

1 6 mdmch

2 Attorney under the cases to do so and they hope he
3 blunders because when it does come to light, as it
4 eventually does, that gives them a new trial, as we have
5 seen from many rather fantastic cases.

6 So my suggestion to you is you approach it
7 from the other way around, that you have Mr. Yuin cull
8 those portions of the diary which he regards as privileged,
9 give them a Xerox of the parts he doesn't care about,
10 and that which he regards as privileged and declines
11 to turn over. Mrs. Ho should --

12 MR. ENGEL: Review with me.

13 THE COURT: That's right. And then you
14 will be able to make a representation to the Court as
15 to the portions not turned out you personally have
16 screened it for Brady material, not relied on Mr. Yuin
17 to do so.

18 MR. ENGEL: There was another aspect of my
19 plan. I think your plan is perhaps equally able to be
20 turned out, and I will just try -- I will try my darnedest.
21 I will do it on Saturday, which I figure, then have it
22 available --

23 THE COURT: I was hoping this case would be
24 finished this week.

25 MR. ENGEL: So was it, but I don't foresee that.

A24

1 7 mdmch

2 MR. SLEPIAN: Do I understand that under this
3 plan now the witness George Yuin has care, custody, possession
4 and control of those two diaries right now?

5 THE COURT: That is my understanding.

6 MR. SLEPIAN: I respectfully move for a
7 mistrial.

8 THE COURT: Motion denied.

9 MR. SLEPIAN: May I finish?

10 These two diaries were given 3500 numbers
11 yesterday. They were taken away from counsel who was
12 having the interpreter read them, and now one hook, one
13 circlicue, any line on those hieroglyphics can distort
14 entirely their meaning, and to allow the witness to have
15 back those diaries in his possession to do with as he
16 sees fit was unconscionable.

17 I thought it was under the exclusive control
18 of Mr. Engel.

19 THE COURT: You made your motion and I denied
20 it. Your record is protected.

21 There are exigencies that have to be met in
22 this case and I try to meet them the best I can.

23 MR. SLEPIAN: I ask a direction they be taken
24 away immediately from Mr. Yuin, before he can further make
25 alterations, changes, or take any other action which would
in any way affect the contents of the documents.

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2 THE COURT: I would suggest, Mr. Engel, that
3 Mrs. Ho ought to be present while this work is being done.

4 MR. SLEPIAN: Apparently that has not been the
5 case already and there may be irreparable damage already
6 because all he has to do is take a pen and change on little
7 hieroglyphic and we have not only a new word for you but
8 a new paragraph.

9 THE COURT: Maybe we should have a will for
10 Howard Hughes.

11 MR. SLEPIAN: Let us remember that this person
12 was a high school teacher of Chinese literature.

13 THE COURT: But, you know, it's the ink and the
14 age of the paper.

15 MR. SLEPIAN: Am I to go to expert testimony?
16 I am shocked that this was taken out of Mr. Engel's
17 possession after we were directed to return it to him,
18 and that this man has had it all night long and all day
19 today, wherever he is.

20 THE COURT: All right. The record will show
21 you are shocked.

22 MR. ROSENTHAL: I join in it.

23 THE COURT: You are shocked, too?

24 MR. ROSENTHAL: I am not shocked about anything
25 that occurs in these courtrooms.

A31

2 THE COURT: All right. You are not shocked but
3 your motion is denied also.

4 MR. ROSENTHAL: I join in the application.

5 THE COURT: All right. Please bring the jury
6 back in.

7 (The jury entered the courtroom.)

8 THE COURT: I am going to receive the exhibits
9 in evidence but they are not to be shown to the jury until
10 enlargements and legible blowups have been made of any
11 of the pages which Mr. Rosenthal has difficulty reading or
12 which he believes a reasonable person would have diffi-
13 culty in reading.

14 MR. ENGEL: That's fine.

XXX

15 (Government's Exhibits 50 through 54 received
16 in evidence.)

17 THE COURT: Do you use this microfilm for cus-
18 tomers who request their bills?

19 THE WITNESS: Yes, your Honor.

20 THE COURT: They have no trouble with legibility
21 on it?

22 THE WITNESS: No.

23 THE COURT: You think a normal person can read
24 these things?

25 THE WITNESS: Well, we try to get the best possible

A32

1 17 rkmch

2 passages that he does not want to be disclosed.

3 In any event, he is coming to my office at
4 4:30 this afternoon and I will see him then.

5 THE COURT: Fine. Just keep us adequately
6 informed.

7 MR. SLEPIAN: The question is whether he
8 picked out these passages with an interpreter who explained
9 to Mr. Engel what the passages are that he wanted to keep
10 out.

11 THE COURT: Mr. Yuin can read Chinese.

12 MR. SLEPIAN: Mr. Engel can't. I don't believe
13 we have reached a point where the witness is determining
14 what is Brady material.

15 THE COURT: No. The procedure I had in mind
16 and I thought I made this adequately clear, the proceeding
17 I had in mind was to have the witness designate that which
18 he doesn't want your people to see. I had begun with
19 the idea you could see it all. I assume the problem does
20 not involve the entire diary and he is to set out that
21 which he does not want disclosed.

22 Mr. Engel will then translate that and the
23 translation, if necessary, will be reviewed by the Court
24 in camera, and if I find it is Brady material I will direct
25 that which I find to be Brady material to be disclosed

A33

1 18 rkmch

2 if I believe I ought to do that, and if I don't so find
3 I will seal the transcript -- the translation, rather, and
4 your rights will be protected.

5 I think I have done all that could be expected
6 to be done with respect to this diary. It's just a
7 question of getting it attended to.

8 MR. SLEPIAN: There is a standing objection
9 to the constant possession of that diary in Mr. Yuin's
10 possession for tampering.

11 THE COURT: I thought we agreed yesterday it
12 would be possessed by him in the presence of the interpreter
13 or the United States Attorney.

14 MR. ENGEL: Your Honor, I am in court all day,
15 Mrs. Ho is in court all day, and we can't sit over the
16 witness' shoulder. There is no evidence, and I object
17 to Mr. Slepian's constant slurs with respect to this
18 witness tampering, and I don't think we should presume
19 he is going to tamper with it. I don't think there is
20 any indication of it at all.

21 THE COURT: I don't presume so, and I would like
22 to avoid any problems. I think it's impossible to tamper
23 with it at this stage. The principal diary is a bound book
24 and the purpose for which this man kept the diary, as
25 I understand it, was to make certain that he was adequately

A34

1 19 rkmch

2 protected if his own dealings with the Federal Government
3 did not eventuate to his complete satisfaction. He wants
4 to be able to make a claim, a claim in the nature of a
5 2255 proceeding or a claim under the Federal Government
6 Claims Act, or some other kind of a claim, and he wants
7 to have a record of his dealings with Taylor and other
8 people. It's a bound book.

9 MR. SLEPIAN: He may be concerned that various
10 testimony he gave is in opposition to various statements
11 he made in that diary, and he may be concerned about some
12 perjurious statements. I don't know what he is concerned
13 with.

14 All I know is I continue to object --

15 THE COURT: If he was concerned with those
16 things, there wouldn't be much point in giving it to the
17 prosecutor.

18 MR. SLEPIAN: I have no question of Mr. Engel's
19 integrity. I wanted him to keep these diaries.

20 THE COURT: When you can, Mr. Engel, this
21 afternoon, you ought to avoid controversy, if possible,
22 by making some effort to insure either that there is
23 a continued, or preserved chain of custody of the documents
24 or the Xerox of them. It seems to me it can be done.

25 See what you can do to resolve it. You don't

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want to hear about this any more.

MR. ENGEL: I certainly don't. There comes
a limit as to how much I can do.

THE COURT: I understand that.

(Luncheon recess)

A36

2 It seems to me the only purpose of this could
3 only be cumulative or inflammatory in some sense.

4 THE COURT: I don't know what is inflammatory
5 about it. I will have to say to you that sitting here,
6 listening to these exhibit numbers, I can't tell which
7 signatures are signed by Gloria and which Gloria signatures
8 are signed by Cheung or Yui.

9 I think in this day and age, when people don't
10 tend to believe, it's permissible to let the expert show
11 his blowups and show how he drew his inference, and what
12 the signature was on. I don't think there is anything
13 inflammatory about that.

14 MR. ENGEL: Your Honor, that is really why
15 I am calling this person, just to make it clear who wrote
16 what, and so that it's clear to the jury.

17 THE COURT: I don't know if you can make it
18 clear. It isn't clear so far.

19 MR. ENGEL: That's why I wanted to continue,
20 your Honor.

21 THE COURT: I will take the proof. Set up
22 the equipment.

23 MR. SLEPIAN: I have examined certain portions
24 of the diary turned over to me. I think the Court will
25 recall itself in the small diary seeing the words

A37

Witness Protection Act or WPA and various statements about that written in English by Mr. Yuin.

The diary which I have now received, purporting to be the entire diary, is devoid of that page or pages which I have looked at, and which I believe the Court will recall as well.

THE COURT: You are talking about the little book or the big book?

MR. SLEPIAN: The little book with all the handwriting in English about WPA. I have been given what is purported to be the entire diary. Those pages relating to WPA are not in the diary at all now, which was my fear, and which I stated when the books were given back to the witness himself.

If Mr. Engel or the Court or myself would wish to enter into a stipulation that these diaries have pages that have been taken out, though they were purported not to have been tampered with, then perhaps we can obviate having Mr. Yuin back here.

THE COURT: He has to come back anyway to tell about his signature.

I would like to know what pages, if any, have been removed.

MR. SLEPIAN: If the Court will take a look at

A38

2 Witness Protection Act or WPA and various statements
3 about that written in English by Mr. Yuin.

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5 to be the entire diary, is devoid of that page or pages
6 which I have looked at, and which I believe the Court will
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9 book or the big book?

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11 handwriting in English about WPA. I have been given
12 what is purported to be the entire diary. Those pages
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14 my fear, and which I stated when the books were given back
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17 to enter into a stipulation that these diaries have
18 pages that have been taken out, though they were purported
19 not to have been tampered with, then perhaps we can
20 obviate having Mr. Yuin back here.

21 THE COURT: He has to come back anyway to tell
22 about his signature.

23 I would like to know what pages, if any, have
24 been removed.

25 MR. SLEPIAN: If the Court will take a look at

A38

2 the diary, it will refresh even the Court's recollection
3 of having seen the word WPA, and it is not in there.

4 It's the spiral pad where pages can be torn
5 out.

6 THE COURT: I will discuss that with you at
7 the end of the day.

8 What about the phone numbers? Are you going
9 to leave those in the air?

10 MR. ENGEL: That will be the subject of a
11 stipulation.

12 THE COURT: Are you ready, Mr. McNally?

13 THE WITNESS: Yes, your Honor.

14 THE COURT: Bring in the jury, please.

15 (Jury present)

16 THE COURT: Have all the slides been marked
17 for identification?

18 MR. ENGEL: No.

19 THE WITNESS: I have them marked in my own
20 manner.

21 THE COURT: I would like them marked in some
22 manner that doesn't interfere with their being projected.

23 Before anything is exhibited to the jury.
24 I would like to have the record show an identification
25 number for the slide.

A39

1 is have the slides that Mr. McNally showed the jury been
2 admitted?

3
4 THE COURT: They have been admitted. They are
5 in the record and have been duly marked.

6 I stand corrected. He is in the process of
7 marking them.

8 Anything further?

9 MR. ENCEL: No.

10 MP. ROSENTHAL: Mr. Engel and I have agreed
11 on a stipulation I would tell the jury. Mr. Engel and I
12 have agreed on two items.

13 THE COURT: I would like to see counsel and
14 the court reporter inside.

15 MR. SLEPIAN: We also have an in camera
16 situation with George Yuin, at my request, that various
17 pages have been removed from the spiral notebook.

18 MR. ENGEL: I spoke with Mr. Yuin last night
19 and he says no pages were removed, and I have no reason
20 to think otherwise.

21 THE COURT: I have no basis to form a conclusion,
22 one way or the other. It's been suggested to me by Mr.
23 Slepian that I had observed something in English there.
24 I would really have to say I don't have any recollection
25 one way or the other.

A 40

2 MR. SLEPIAN: I would believe the transcript
3 indicated your Honor stated he saw reference to WPA in
4 writing.

5 THE COURT: I saw it in the hardbound, and I
6 think I saw it yesterday in the softbound segments which
7 I had.

8 I would like to make another suggestion to
9 you. The softbound or spiral notebook, if you want to call
10 it that, the pages of dates, and I would ask you before
11 you make a lot of extravagant statements on the record,
12 any of you, that you sit down and lay out these pages
13 and see if they are not self-authenticating as to
14 dates, and you defense attorneys should certainly do that,
15 because I am going to permit you to examine Yuin in the
16 absence of the jury to ask him did he destroy any pages
17 from this diary between the time that he first handed it
18 to the Government and he gave it back -- rather, the
19 Government gave it back to him.

20 Assuming he answers that the same way that he
21 answered before, that he answered Mr. Engel outside of
22 court and not under oath, but assuming he gives the
23 same testimony as his answers to Mr. Engel, you will be
24 at a blind wall unless you have intrinsic evidence of the
25 book wher you can tell him that April 1st is missing.

A 41

1 MR. SLEPIAN: I can't do that.

2
3 MR. ENGEL: Mr. Yuin made that suggestion to me
4 yesterday afternoon.

5 MR. SLEPIAN: I would like to have the English
6 portion, three or four of these pages in English, intro-
7 duced not necessarily for the purpose of their truthful-
8 ness but rather indicating his handwriting.

9 THE COURT: I won't require Mr. Engel to do that,
10 but you may do so when your turn comes.

11 MR. SLEPIAN: I would just then ask to have it
12 marked as a defendant's exhibit in front of the jury, that
13 we just take --

14 THE COURT: When you opportunity to take evidence
15 arises after he rests, sure, you can do that. Mr. Engel
16 isn't going to dispute the authenticity.

17 Please step inside, gentlemen.

18 (In the robing room.)

19 THE COURT: I must report to the attorneys that
20 this morning a juror entered into a conversation with the
21 minute clerk, and told the minute clerk that her brother
22 or a relative, the clerk did not make a note of the exact
23 relationship because he was somewhat astonished at the
24 statement -- her brother or a relative is a guard employed
25 downstairs by the Federal Protection Service.

A42.

A 202 Affidavit of Personal Service of Papers
**UNITED STATES O COURT OF APPEALS
SECOND CIRCUIT**

LUTZ APPELLATE PRINTERS, INC.

UNITED STATES OF AMERICA,

Appellee

- against -

LAI MONG WAH,

Appellant

Index No.

Affidavit of Personal Service

STATE OF NEW YORK, COUNTY OF NEW YORK

ss.

I, Victor Ortega, *being duly sworn*
depose and say that deponent is not a party to the action, is over 18 years of age and resides at
1027 Avenue St. John, Bronx, New York
That on the **24th** day of **Sept.** 19**76** at **1 Saint Andrews Plaza New York, N. Y.**

deponent served the annexed *appendix*

upon
Robert Fiske, Jr. , Attorney General Southern District

the **Respondent** in this action by delivering a true copy thereof to said individual
personally. Deponent knew the person so served to be the person mentioned and described in said
papers as the Attorney(s) herein.

Sworn to before me, this **24th**
day of **September** 19**76**

Beth A. Hirsh

BETH A. HIRSH
NOTARY PUBLIC, State of New York
No. 41-4623156
Qualified in Queens County
Commission Expires March 30, 1978

Victor Ortega
VICTOR ORTEGA